

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MIGUEL CARDONA INOSTROZ,

Petitioner,

v.

JOEL MARTINEZ,

Respondent.

Case No. [17-cv-05577-HSG](#)

**ORDER DENYING WITHOUT
PREJUDICE REQUESTS TO
PROCEED IN FORMA PAUPERIS ON
APPEAL AND FOR CERTIFICATE OF
APPEALABILITY**

Re: Dkt. Nos. 13, 14

Petitioner filed the instant *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging the validity of a judgment obtained against him in state court. Dkt. No. 1. On January 21, 2020, the Court denied the petition for a writ of habeas corpus, denied a certificate of appealability, and entered judgment in favor of respondent. Dkt. Nos. 11, 12. Petitioner has filed a request to proceed *in forma pauperis* on appeal (Dkt. No. 13) and a request for a certificate of appealability (Dkt. No. 14). However, neither pleading is signed.¹ Fed. R. Civ. P. 11(a) requires that every pleading, written motion, and other paper be signed by at least one attorney of record in the attorney's name or by a party personally if the party is unrepresented. Fed. R. Civ. P. 11(a). Rule 11 requires the court to strike an unsigned paper unless the omission is promptly corrected after being called to the attorney's or party's attention. Fed. R. Civ. P. 11(a). The Court therefore DENIES petitioner's requests to proceed *in forma pauperis* on appeal and for a certificate of appealability without prejudice to re-filing signed motions requesting leave to


¹ Petitioner's notice of appeal (Dkt. No. 15) is also unsigned. A notice of appeal must be signed by the appellant or the appellant's counsel. Fed. R. Civ. P. 11(a). However, failure to sign the notice does not divest the court of appeals of jurisdiction; rather, the appellant may remedy the defect by supplying a signature once the omission is called to his or her attention. *Becker v. Montgomery*, 532 U.S. 757, 760 (2001) (applying Rule 11(a) of the Federal Rules of Civil Procedure).

1 proceed *in forma pauperis* on appeal and requesting a certificate of appealability. Dkt. Nos. 13,
2 14.

3 This order terminates Dkt. Nos. 13 and 14.

4 **IT IS SO ORDERED.**

5 Dated: 2/19/2020

6 
7 HAYWOOD S. GILLIAM, JR.
8 United States District Judge
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28